REMARKS

The Office Action dated April 14, 2009, has been received and carefully noted. The above amendments to the claims, and the following remarks, are submitted as a full and complete response thereto.

Status of the Claims

Claim 19 has been amended to more particularly point out and distinctly claim the subject matter of the invention. No new matter has been added. Claims 1-21 are currently pending in the application and are respectfully submitted for consideration.

Allowable Subject Matter

Applicant notes with appreciation the Examiner's indication that claim 12 is allowed. Applicant kindly thanks the Examiner for the assistance. Applicant respectfully submits that claims 1-11 and 13-21 are also allowable for at least the reasons set forth below.

Rejection under 35 U.S.C. § 103

Claims 1-11 and 13-21 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Pimentel (U.S. Publication No. 2003/0214970) in view of Martin et al. (U.S. Publication No. 2003/0055912). The Office Action took the position on pages 3-9 that the combination of Pimentel and Martin et al. teaches all of the features of the rejected claims. Applicant respectfully traverses the rejection. Reconsideration of the claims is respectfully requested.

Independent claim 1, from which claims 2-8 and 16-18 depend, recites a method including utilizing a bearer independent protocol between a server and user equipment in a transmission of a messaging service message from a sender in a first system having a first structure for messages to a receiver of a second system having a second structure for the messages. The bearer independent protocol is above a bearer protocol in a protocol stack.

Independent claim 9, from which claims 10 and 11 depend, recites a system including a first system having a first structure for messaging service messages and a second system having a second structure for the messages. The system also includes a server via which a message is transmitted from the first system to the second system. The server is configured to utilize a bearer independent protocol in the transmission of the message from the first system to the second system. The bearer independent protocol is above a bearer protocol in a protocol stack.

Independent claim 13, from which claims 14 and 15 depend, recites an apparatus including a processor configured to utilize a bearer independent protocol in a transmission of a message from a first system having a first structure for messaging service messages to a second system having a second structure for the messages. The bearer independent protocol is above a bearer protocol in a protocol stack.

Independent claim 19, from which claims 20 and 21 depend, recites an apparatus comprising utilizing means for utilizing a bearer independent protocol in a transmission of a message between a sender of the message and a receiver of the message. The

apparatus also includes transmitting means for transmitting a messaging service message from the sender in a first system having a first structure for messages to the receiver of a second system having a second structure for the messages. The bearer independent protocol is above a bearer protocol in a protocol stack.

As will be discussed below, Pimentel and Martin et al., both individually and in combination, fail to teach or suggest all of the features of the presently pending claims.

Pimentel generally discusses "a wireless application gateway for communicating between a wireless device and a backend system" (paragraph [0014]).

> The wireless application gateway comprises an application programming interface receiving a mobile-terminated message from the backend system and sending a formatted mobile-originated message to the backend system, a routing layer selecting a first protocol using a characteristic of the mobile-terminated message, a protocol layer generating a formatted mobile-terminated message using the first protocol and generating the formatted mobile-originated message using a second protocol, a transport layer sending the formatted mobile-terminated message to a short message service center and receiving the mobile-originated message, and a configuration file comprising a parameter used to choose the first protocol and the second protocol, wherein the mobile-terminated message is sent to the wireless device using a static identifier of the wireless device and the mobile-originated message is sent to the backend system using a dynamic identifier of the wireless device.

(*Id.*).

Martin et al. generally discusses "controlling characteristics of network connections" (paragraph [0002]).

> Broadly speaking, the [alleged] invention relates to techniques for controlling a network connection in accordance with connection information associated with a destination location on a network. Controlling of the network connection in accordance with connection

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information associated with the destination location can be achieved in a variety of ways. One way is in the selection of a network transport (e.g., bearer selection). Another way is in the configuration of parameters associated with the connection (i.e., connection parameters). In either case, the connection information includes information with which the selection of the network transport and/or connection parameters can be made. The controlling of the network connection impacts quality of service provided to a requestor that is requesting use of the connection.

(Paragraph [0009] of Martin et al.).

Independent claim 1 recites, in part, "utilizing a bearer independent protocol between a server and user equipment in a transmission of a messaging service message from a sender in a first system having a first structure for messages to a receiver of a second system having a second structure for the messages". Independent claims 9, 13 and 19, which each have their own scope, recite similar features. The Office Action took the position on page 3 that Pimentel discloses "utilizing a particular protocol". Since the Office Action stated in the last sentence of the first full paragraph on page 3 that "Pimentel does not disclose [that] **the bearer independent protocol** is above a bearer protocol in a protocol stack" (emphasis added), it appears that the Office Action took the position that Pimentel discloses a bearer independent protocol. Applicants respectfully submit that this is not the case.

The protocols utilized in transmission between a server and user equipment in Pimentel are UDP (see paragraph [0033]) and TCP (see paragraph [0006]). These protocols are bearers and as such, Pimentel discusses utilizing a particular **bearer dependent protocol** in the transmission. Thus, Pimentel fails to teach or suggest the

claimed feature of utilizing a **bearer _independent_ protocol** in transmission of a message between a server and user equipment.

In the rejection, the Office Action also referred to paragraphs [0014]-[0018] of Pimentel. This section discusses that a gateway selects a protocol with which to generate a message. This clearly infers that a protocol conversion is needed since the protocol used in the transmission is bearer dependent. Further, the discussion of generating a message does not, by itself, teach or suggest how the message is transmitted. In paragraph [0006] of Pimentel, a use of a particular protocol is described, but the particular protocol is not a transmission protocol since the particular protocol is used over TCP/IP, and TCP is a bearer dependent transmission protocol.

With respect to the corresponding features of claims 9 and 13, the Office Action referred to another section of Pimentel. The referenced paragraphs [0034]-[0039] discuss using UDP as a transmission protocol, which is a bearer dependent protocol per the above. Thus, Pimentel fails to teach or suggest a bearer independent protocol utilized in message transmission between a server and user equipment.

Independent claim 1 also recites, in part, that "said bearer independent protocol is above a bearer protocol in a protocol stack." Independent claims 9, 13 and 19, which each have their own scope, recite similar features. Per the above, the Office Action correctly observed on page 3 that "Pimentel does not disclose [that] the bearer independent protocol is above a bearer protocol in a protocol stack." Rather, the Office

Action alleged that paragraphs [0006] and [0087]-[0089] of Martin et al. disclose these features. Applicant respectfully disagrees.

The Office Action alleged on page 4 that Martin et al. discloses an "independent protocol defined by protocols". The statement purports to be a citation to some section of Martin et al. However, Martin et al. lacks the term "independent", and further lacks "protocol defined by protocols" and "protocol defined". Applicant is unable to find any such citation in Martin et al. Applicants respectfully submits that Martin et al. fails to teach or suggest these features. If the Examiner disagrees, Applicant kindly requests that the Examiner clearly point out where Martin et al. is alleged to define and discuss an "independent protocol", using specific quotations to actual text of Martin et al.

Per the above, the Office Action referred to paragraphs [0006] and [0087]-[0089] of Martin et al. in rejecting the above-recited claim features. However, the cited sections of Martin et al. do not teach or suggest that a bearer independent protocol is utilized in transmission between a server and user equipment. Accordingly, the cited section of Martin et al. cannot, and does not, teach or suggest that a bearer independent protocol is above a bearer protocol in a protocol stack.

More precisely, the referenced paragraphs of Martin et al. discuss the following:

- Paragraph [0006] discusses that protocol stacks may be configured with different parameters such as re-transmission timers and circuit linger timers, where the parameters affect the quality of service;
- Paragraph [0087] discusses a gateway having at least two different interfaces to access corresponding bearers (UDP and HTTP, replaceable by another bearer if used) and a server module that converts a message received from one interface (in a form required by the corresponding

bearer) to a form required by the other interface (and corresponding other bearer) before forwarding the message;

- Paragraph [0088] discusses that a mobile device of Fig. 7B can correspond to a remote computing device 616 of Fig. 6A; and
- Paragraph [0089] discusses that the mobile device uses UDP bearer to communicate via the gateway. Therefore the browser (an example of being HDML web browser) uses a UDP bearer (paragraph [0051] discusses that if there is only one bearer, the browser uses it, and paragraph [0058] discusses how to select a bearer if many are available).

Martin et al. further discusses that a connection between the mobile device and a server is always established via the gateway, the selected bearer protocol is used between the mobile device and the gateway and the gateway performs a protocol conversion if another bearer is used between the gateway and the server. In summary, Martin et al. discusses that each network has its own protocol stack that depends on the bearer; in other words, the protocols are **bearer dependent**. Further, Martin et al. discusses that a UDP interface and an HTTP interface are particularly used for respective communication protocols and a protocol conversion between UDP and HTTP is to be performed. Thus, Martin et al. fails to teach or suggest a bearer independent protocol, and further fails to teach or suggest that the bearer independent protocol is above a bearer protocol in a protocol stack. Accordingly, independent claims 1, 9, 13 and 19 patentably distinguish over the cited art.

Claims 2, 5, 6, 11, 14 and 15 also recite a bearer independent protocol. Per the above, Pimentel is silent as to a bearer independent protocol. Instead, Pimentel discusses using either TCP or UDP in paragraphs [0031]-[0033].

With respect to claim 3, Pimentel is silent as to a bearer independent protocol. Further, Pimentel is silent on transmitting a message from a sender's equipment to a receiver's equipment. The backend system is discussed in Pimentel to be a place where a mobile originating message, targeted to a receiver, is transferred to a mobile terminating message that is forwarded to the receiver.

With respect to claims 4, 7, 16, 20 and 21, Pimentel fails to teach or suggest that a message is converted to another protocol in response to the failure of the transfer of the message. Rather, Pimentel discusses generating an MO message to inform the result (success or failure) of a transfer of an MT message. However, that does not teach or suggest that the MT message is converted to another protocol in response to the failure of the transfer of the MT message.

With respect to claims 8 and 18, Pimentel discusses UDP/IP as a transmission service. In paragraph [0043], for example, a message may be stored. However, the message is transmitted **in the form it was stored in the receiver**. This is contrary to the claimed features of sending an address to receiver's equipment and reading the content by using the address.

With respect to claim 10, Applicant respectfully requests that the Examiner more precisely point out what structure in Pimentel allegedly corresponds to a first network node in a first system, and what corresponds to the first system and the second system. Applicants are unable to definitively determine this from the citation and do not believe that Fig. 5 and paragraphs [0030]-[0035] teach or suggest the claimed features.

Per the above, <u>Pimentel</u> and <u>Martin et al.</u>, both individually and in combination, fail to teach or suggest the features of the rejected claims under 35 U.S.C. § 103(a). Accordingly, it is respectfully submitted that the rejection is overcome and respectfully requested that the rejection be withdrawn.

Conclusion

For at least the reasons above, it is respectfully submitted that claims 1-11 and 13-21 also patentably distinguish over the cited art. Accordingly, it is respectfully requested that the claims be allowed and the application be passed to issue.

If for any reason the Examiner determines that the application is not now in condition for allowance, it is respectfully requested that the Examiner contact, by telephone, Applicant's undersigned representative at the indicated telephone number to arrange for an interview to expedite the disposition of this application.

In the event this paper is not being timely filed, Applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,

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Enclosure: Petition for Extension of Time